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U.S. DISTRICT COURT
DISTRICT OF MASS.

NEWS

Driver in 1998 police bus incident: Female officer was harassed

Vanessa Dixon

By **LISA REDMOND** |

PUBLISHED: October 4, 2005 at 12:00 a.m. | UPDATED: July 13, 2019 at 12:00 a.m.

BOSTON — Nearly seven years to the day that an off-duty Lowell police bus trip to a Boston political rally rocked the department with charges of sexual harassment, favoritism and cover-up, the first of four lawsuits is now on trial.

Yesterday, in front of a U.S. District Court jury, bus driver Julie Gagnon testified that she has tried to drive the ugly memories of that night from her thoughts.

"I've spent the last seven years really trying to forget that night," the Chelmsford woman testified in front of Judge William Young.

"The word (expletive) was used so much, I turned my mind off to it," Gagnon testified. "I remember the unpleasantness."

Gagnon was a key witness for Vanessa Dixon, a former Lowell police officer, who filed a civil-rights lawsuit claiming she was sexually harassed during a police union-sponsored bus trip to attend a political rally for then-Gov. Paul Cellucci.

Dixon also testified yesterday; Police Superintendent Edward Davis is expected to testify tomorrow.

Dixon is suing the International Brotherhood of Police Officers, its former president, Kenneth Lyons, and IBPO Local 382 former President Jerry Flynn, Lowell Officer David Pender and former Officer Jay Leary, who was fired as a result of his involvement in the incident.

Dixon claims in the suit that she was subjected to "gender discrimination, sexual harassment, abuse, humiliation, intimidation, violence and threats of violence" during the off-duty bus trip on Oct. 26, 1998.

Dixon, an eight-year veteran police officer, resigned in May 2004 as part of a settlement with the city for retroactive disability. She currently works at Middlesex Community College and does paid detail work for the Tewksbury Police Department.

Although she had been denied permanent disability benefits, Dixon said yesterday she is currently appealing that decision.

In court yesterday, Gagnon testified that she picked up about 16 union members, including Dixon, in Lowell at about 3:30 p.m.

Many of the people boarding the bus carried with them cases of beer.

The drinking would continue after the political rally, when the union members were dropped off at Anthony's Pier 4 and, later, a Boston bar.

In driving from place to place, Gagnon said she ran into roadblocks because of road construction and had to change her route several times.

A person who Gagnon labeled "Loudmouth" kept yelling at her, "How could any company hire such a (expletive) old lady who gets lost in the city?"

She later heard some of the other officers refer to "Loudmouth" as "Jay."

At one point, Dixon asked if a male friend, who was not part of the original union party, could be dropped off at his hotel.

"Jay" made rude and disparaging remarks about how Dixon should get off the bus and have sex with the man, Gagnon testified.

There were also other comments made that Dixon had been sexually intimate with all the men, Gagnon testified.

"There were a lot of comments made to her," Gagnon said of Dixon. "Nothing was flattering."

After dropping the man off near his hotel, Dixon wanted to be let off the bus a short time later. Gagnon testified that she balked at the idea of letting Dixon off in the middle of Boston, but she relented because Dixon was a police officer.

"She was in a hurry to get off the vehicle," Gagnon testified. "She had been putting up with a lot of abuse. She was very distraught."

Afterward, she said, some of the men on the bus were concerned and asked Gagnon to drive around the Boston Common to spot Dixon, but she was gone.

After the incident, the Lowell police launched an internal investigation. As a result, Flynn and officers Scott Fuller, Angel Otero and Daniel Otero were suspended for 30 days each. They appealed to the state Civil Service Commission, which nullified the suspensions.

Flynn and Fuller are suing the city, as has Angel Otero. Those cases have not gone to trial.

Two other officers disciplined, Pender and Jose Rivera, also appealed to civil service, which reduced their suspensions.

The commission, however, upheld the firing of Leary.

In his ruling, state Civil Service Commissioner Robert Tierney wrote, "While there is evidence of rude, insulting, abusive and debasing comments directed at Dixon, the comments do not rise to the level of sexual harassment as defined by state law and police regulations."

In the same report, Tierney wrote that there were "numerous occasions when Dixon abandoned the truth" in her testimony before the commission.

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NEWS

Assault Charges dropped against city officer

By **CHRISTOPHER SCOTT** | cscott@lowellsun.com | Lowell Sun

PUBLISHED: January 23, 2013 at 12:00 a.m. | UPDATED: July 12, 2019 at 12:00 a.m.

LOWELL — Domestic-assault and battery charges against a Lowell police officer have been dropped; however, the veteran officer remains on paid administrative leave.

Documents at Lowell District Court indicate that Officer David Pender, 47, of 18th Street, and his wife, Melissa Pender, of the same address, signed an “accord & satisfaction” agreement, which essentially means Melissa Pender will not press charges.

The document, dated Jan. 16, states: “The complainant acknowledges that she has been satisfied as to any and all injuries arising out of the incident which is the subject of the complaint. Both parties mutually release each other from any and all claims, civil or otherwise, arising from this incident or any incident prior to this date.”

Pender was arrested by Lowell police at about 1:30 a.m. on New Year's Day at his Lowell residence. Pender was transported to police headquarters and booked. He was arraigned at Lowell District Court Jan. 2, when his case was continued until Jan. 14 for a pretrial conference.

When initially contacted by The Sun, Pender declined to discuss the case in detail. He did say, however, that his wife would not press charges.

Pender is a school-resource officer who earns \$72,260 annually. He's been on the Lowell force for nearly three decades.

Police Superintendent Kenneth Lavallee declined to say why Pender hasn't returned to duty now that he is no longer facing criminal charges, other than to say the Pender matter is "still under review."

Before his arrest, Pender confirmed to The Sun he was questioned in an internal-affairs investigation into Officer Daniel Otero. Otero has been accused by fellow Officer Timothy Golden of conduct unbecoming an officer, specifically, having an affair with his ex-wife, Meara Kennedy, 32, of Parkview Avenue, Lowell.

The Sun has also learned that a fellow classmate in the 2011 Lowell Police Training Academy has charged Otero with sexual harassment. The alleged victim is now employed in a local police force.

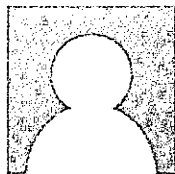
The Otero probe is ongoing, The Sun has learned.

Golden, also a school-resource officer, and Kennedy, a physical-education teacher, both at the high school, were suspended with pay for several weeks after Golden charged his ex-wife with breaking and entering into his home and she took out a restraining order against him.

In recent weeks, however, Golden agreed to drop the breaking and entering charge and Kennedy lifted the restraining order.

Both have since returned to work.

Follow Scott on Twitter @cscottlowellsun.



Christopher Scott | Enterprise Editor

Christopher Scott has been a member of the Sun staff since 1981, when he was a journalism student at Northeastern University. When he graduated in 1984, he was hired full-time as a regional reporter in the Nashoba Valley. In the ensuing years

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NEWS

Lowell police officer suspended 6 months

Lowell Patrolman David Pender, a school resource officer at the Lowell High Career Academy, has been suspended for six months, without pay, after the Lowell Police Department found he allegedly handcuffed a disruptive student and used unnecessary force on the 16-year-old last September. sun photo illustration Sun staff photos can be ordered by visiting our SmugMug site.

By **CHRISTOPHER SCOTT** | cscott@lowellsun.com | Lowell Sun

PUBLISHED: January 26, 2017 at 12:00 a.m. | UPDATED: July 11, 2019 at 12:00 a.m.

LOWELL — Patrolman David Pender today begins serving a six-month suspension without pay in which he must complete anger-management training for using unnecessary force against a 16-year-old student he placed in handcuffs at the Lowell High School Career Academy last fall.

Pender was also stripped of his school resource officer position and told he can never work in that capacity again.

The order by City Manager Kevin Murphy, which Pender received late Tuesday, also places the 28-year veteran on what equates to probation: If Pender violates any department policy over the next two years, he will immediately serve out the balance of the six-month suspension, also without pay, The Sun has learned.

"What happened was a very unfortunate incident," said Murphy. "But the action taken against officer Pender was necessary to protect the integrity of the school resource officer position and the Lowell Police Department in general."

Some top city elected and appointed officials said privately that Murphy should have fired Pender, noting the severity of what happened last September at the school for behaviorally challenged students and the major blemishes on Pender's personnel record.

Murphy said he was "inclined to terminate" the officer but decided on a less severe punishment when Middlesex District Attorney Marian Ryan declined to press criminal charges.

Murphy also cited a meeting he and Police Superintendent William Taylor held with Pender in which the officer expressed remorse for his actions.

"I think I am a pretty good judge of character and I believe him when he said he's sorry," Murphy said.

Taylor declined to comment.

A three-month suspension amounts to a \$20,000 loss of pay for Pender whose annual salary is listed at \$87,000. Pender has been on paid administrative leave since Nov. 11.

Pender is vice president of the Lowell Police Association. He declined to comment through Officer Francisco Maldonado, the union president. Maldonado also declined to comment.

However, Maldonado said union members will meet Thursday at 7 p.m. at the Mount Pleasant Country Club to consider counting the ballots of a Dec. 7 no-confidence vote in Taylor. Maldonado previously said Taylor has a bias against Pender, but he did not elaborate. Taylor has denied having any bias against Pender.

Lt. Greg Hudon, officer in charge of the Police Department's Professional Standards Division, wrote in an 87-page report on the Sept. 15, 2016 incident that: Pender handcuffed the student, ordered a room cleared of any potential witnesses, and then grabbed the boy by the neck, striking him in the head and threatening to spray him with Mace.

The student was suspected of having a bag of marijuana in his pocket.

"Due to the fact that Officer Pender ordered the room cleared, this writer is left with only two witnesses, Officer Pender and (redacted). Officer Pender cannot offer any plausible explanation as to the origin of the marks and bruises," on the victim, Hudon wrote.

"This fact, coupled with (redacted) statements and the additional medical records and photographs and text messages to his aunt, leaves this writer to draw the following conclusion: Based on all available information, this writer finds by a preponderance of the evidence that the allegation of misconduct is sustained, based on the following violation of the rules and regulations of the Lowell Police Department:"

* Prohibited conduct — unnecessary force, "or the use of more physical force than that which is necessary to accomplish a proper police purpose."

In his report on the incident, Pender wrote the student refused to empty his pockets and became "loud and confrontational." The officer said the student raised his hand to his chest and refused to put it hand down. Noting the student's "agitated state," Pender said he feared the student might assault him.

District Attorney Ryan decided against pressing criminal charges because the boy's father "steadfastly maintained" he did not want to pursue criminal charges, Katharine Folger, chief of the DA's Child Protection Unit, said in a Dec. 12 email to Hudon, a copy of which was obtained by The Sun.

It's the second six-month suspension Pender has received while on the force, Pender was one of seven Lowell police officers who were accused of sexually harassing a female colleague during an off-duty bus trip to a political rally in Boston in October 1998. Then-City Manager Brian Martin suspended Pender for a year without pay. Pender appealed to the state Civil Service Commission and was successful in reducing his punishment to six months without pay.

Pender was arrested by Lowell police on New Year's Day in 2013 at his Lowell residence on domestic assault and battery charges. He was immediately placed on paid administrative leave by Kenneth Lavallee, then police superintendent. Pender's wife declined to press charges. City officials disciplined Pender with 10 punishment days, v

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